

## **ANDERSON TOWNSHIP BOARD OF ZONING APPEALS**

**October 7, 2021**

The Anderson Township Board of Zoning Appeals held its regular monthly meeting, duly called, on October 7, 2021, at 5:30 p.m. at the Anderson Center. Present were the following members:

**Jeffrey Nye, John Halpin, Steve Haber, Paul Sian, and Amy Richardson, Alternate**

Also, present when the meeting was called to order, Brad Bowers, Planner I, P.J. Ginty, Secretary. A list of citizens in attendance is attached.

Staff was asked to raise their right hand and swear or affirm to the following oath as read by **Mr. Nye**: Do you swear or affirm, to tell the truth, the whole truth and nothing but the truth, so help you God?

Staff replied "yes" to the oath issued by Mr. Nye.

### **Approval of Agenda**

The Agenda for October 7, 2021 was approved, with changes, by unanimous consent with no objections from the Board.

### **Approval of Minutes**

**Mr. Haber** moved; and **Mr. Halpin** seconded to approve the Minutes from September 2, 2021, with changes submitted by Mr. Haber.

**Vote: 5 Yeas**

**Mr. Nye** stated that the board needs to decide on the procedure regarding cross-examination. **Mr. Nye** asked if **Mr. Tim Burke** could cite case law allowing for cross-examination.

**Mr. Tim Burke** replied that Chapter 25.06 of the Ohio Revised Code deals with appeals from a board of zoning appeals decision. He stated that the reason for swearing in of witnesses is to create a written record of the meeting. He stated that he serves as the law director for Evendale and Lockland and does zoning work in Southwest Ohio. He stated this hearing does not take into consideration a legislative action and therefore, with this being a quasi-judicial hearing, staff and the applicant are subject to cross-examination.

**Mr. Bowers** stated that according to the Hamilton County Board of Zoning Appeals Handbook, **Mr. Burke** is correct, and cross-examination is permitted.

**Mr. Nye** stated that he suggests the board modifies the procedure to allow for cross-examination.

**Mr. Haber** asked **Mr. Burke** to explain why he does not need to be sworn in.

**Mr. Burke** replied that he cannot be sworn in as he is an attorney not testifying as a factual witness. He stated he is arguing not providing evidence.

### **Consideration of Case 17-2021 BZA**

**Mr. Bowers** stated that the public hearing is for Case 17-2021 BZA, a conditional use and variance request. The request was filed by Emily Handke of Emily Handke Design, on behalf of Brian & Sarah Blazer, property owner of 2574 Little Dry Run Road and described in book 500, page 220, parcel 192, and zoned "B".

**Mr. Bowers** stated the applicant is requesting a conditional use and variance request to allow for a new single-family residence with an Accessory Apartment with a rear yard setback of 18'-3" where 35' is required per Article 3.4, C, 2, c of the Anderson Township Zoning Resolution. Per Article 5.4, I, 1, Accessory Apartments are a conditional use in the "A-2" Residence Zoning District as defined in Article 6.1, as follows:

"A single dwelling unit apartment intended for use as a complete independent living facility that is in the same structure as, under the same ownership as, and subordinate to a residence constructed as a single-family residence, and with one of the two dwelling units occupied as the principal residence of the owner."

**Mr. Bowers** stated the site is approximately .762 acres.

**Mr. Bowers** stated the properties to the north is zoned "A" Residence, the properties to the south, east, and west are zoned "A-2" Residence.

**Mr. Bowers** stated the applicant is proposing to construct a new single-family residence on a vacant lot with a rear yard setback of 18'-3" where 35' is required per Article 3.4, C, 2, c of the Anderson Township Zoning Resolution. The applicant is also proposing an Accessory Apartment as a separate dwelling unit on the 2nd floor of the single-family house, which would be accessed by an exterior staircase in the rear yard area.

**Mr. Bowers** stated the lot would be accessed by the existing gravel private drive, which is in a driveway easement, on the west property line of the lot. The applicant is proposing to pave the portion of the driveway within the easement with asphalt and with concrete by the proposed house and garage area. He stated there is currently a shed in the front yard area of the property which would be demolished by the applicant prior to construction of the house.

**Mr. Bowers** stated the history of the property. He stated The lot is currently a vacant panhandle lot off of Little Dry Run Road and was purchased by the current owner in May 2021. According to Hamilton County Auditor records, the parcel was created with a minor land division in 1966.

**Mr. Bowers** stated the lot is accessed by a gravel private drive that also provides access to the single-family residence south of the property in question at 2570 Little Dry Run Road. The house at 2570 Little Dry Run Road was constructed in 1947 and was granted a variance with Case 9-2011 BZA for the existing pool in the side yard area.

**Mr. Bowers** stated the applicant submitted a rear yard setback variance application for Case 17-2021 BZA for the September 2, 2021 BZA meeting. However, the case was continued to the October meeting after it was determined that the proposal included the Accessory Apartment

conditional use a week prior the meeting. After being continued, a revised letter and architectural plans / elevations were submitted by the applicant.

**Mr. Nye** asked for clarification about the elevation drawings and the direction that they are facing.

**Mr. Bowers** provided clarification to Mr. Nye

**Mr. Bowers** stated the findings:

**Mr. Bowers** stated, to authorize by the grant of a special zoning certificate after public hearing, the Board of Zoning Appeals shall make a finding that the proposed conditional use is appropriate in the location proposed. The findings shall be based upon the general considerations set forth in Article 2.12, D, 2, a as well as the designated specific criteria for specific uses (Accessory Apartment) contained in Article 5.4, I, 1. In addition, the applicant is requesting a variance from Article 3.4, C, 2 c of the Anderson Township Zoning Resolution for a proposed 18'-3" rear yard setback where 35' is required.

**Mr. Bowers** stated conditional use findings based on general considerations in Article 2.12, D, 2, a of the zoning resolution.

**Mr. Bowers** stated: Spirit and Intent: The proposed use and development would comply with the spirit and intention of the Zoning Resolution and with District purposes by meeting the conditional use standards.

**Mr. Bowers** stated: No Adverse Effect: The proposed single-family house and Accessory Apartment would not have an adverse effect upon adjacent properties, as the proposed staircase to the Accessory Apartment would be shielded by the existing vegetative screen. Further, the applicant stated in the submittal letter that additional vegetation would be planted.

**Mr. Bowers** stated: Consistent with Adopted Township Plans: The conditional use is in accordance with the Township's Comprehensive Plan and Zoning Resolution:

"People and Housing" chapter in the 2016 Comprehensive Plan, which states:

"The Township will be comprised of high-quality neighborhoods with diverse, well-maintained housing."

"The Township should provide a variety of businesses and housing options to meet changing demographics and market demands."

"Encourage the development of a variety of housing styles and densities in appropriate areas of the township."

**Mr. Bowers** stated: Protection of Public Services: the proposed single-family house and Accessory Apartment would respect natural and scenic features, as the existing vegetative buffer to the south would be preserved and shield the exterior staircase to the Accessory Apartment from the residence to the south.

**Mr. Bowers** stated the variance findings based on Specific Criteria for Accessory Apartment – (m), (p,i), (q), (y)

**Mr. Bowers** stated (m) *No exterior alterations of an existing structure shall be made that depart from the residential character of the building. All new structures shall be compatible in residential design with the surrounding neighborhood. However, any improvement required by code or necessitated by licensing requirements shall not be deemed incompatible.* In compliance – The accessory apartment is designed to fit in with the overall design of the house. Further, if the staircase in the rear yard were eliminated and the 2nd floor Accessory Apartment area were to be accessed from the first floor, a conditional use hearing would not be required based on the definition for Accessory Apartment in Article 6.1.

**Mr. Bowers** stated (p) *Signage shall be regulated as follows: (i) No signs shall be erected except those exempt under Article 5.5, D, 3.* In compliance – No signage is being proposed.

**Mr. Bowers** stated (q) *The conditional use shall be subordinate to the principal permitted use with regard to usage and character.* In compliance

**Mr. Bowers** stated (y) *The intensity of the particular use shall be evaluated with regard to the location, size, and configuration of the tract.* In the applicant's submittal, it states that the size of the Accessory Apartment would be 832 square feet and the size of the primary residence would be 5,136 square feet. However, sole access to the Accessory Apartment would be through the staircase in the rear yard area, which requires a rear yard setback variance of 18'-3" where 35' is required.

**Mr. Bowers** stated the variance request findings:

**Mr. Bowers** stated staff is of the opinion that the variance would not be substantial. Staff is of the opinion that the variance is not substantial due to the existing vegetative screening between the proposed house and the residence to the south. Further, the location of the proposed house is approximately 295' from the adjacent residence to the south.

**Mr. Bowers** stated the essential character of the neighborhood would not be altered, and surrounding properties would not suffer a substantial detriment as a result of the variance. The essential character of the neighborhood would not be altered and adjoining properties would not suffer a substantial detriment as a result of the variance. The house is oriented towards the private drive so the front and rear yard areas of the proposed house would function more as a side yard.

**Mr. Bowers** stated the variance would not adversely affect the delivery of governmental services.

**Mr. Bowers** stated the property owner's predicament can be feasibly obviated through some method other than a variance. The applicant could orient the residence to face Little Dry Run Road or reduce the size of the proposed residence to come into compliance with the setback requirements of the "A-2" Residence zoning district.

**Mr. Bowers** stated staff is of the opinion that the spirit and intent behind the zoning requirement would be observed by granting the variance based on the vegetative screen to the south, the distance to the residence to the south and the orientation of the house towards the private drive.

**Mr. Bowers** stated staff's recommended conditions:

1. A revised site plan shall be submitted that is stamped by a Registered Surveyor.
2. A landscape plan shall be submitted and approved by staff prior to a zoning certificate being issued. The landscape plan should demonstrate a vegetative screen that shall be maintained on the southern portion of the property to screen the exterior staircase in the rear yard. The landscape plan shall note the location of all existing plant species and any new plant species that will screen the exterior staircase in the rear yard area.

**Mr. Bowers** stated he'd be happy to answer any questions.

**Mr. Haber** asked about the orientation of the front, rear, and side yards. He asked if the required setbacks are based on the orientation of the house to Little Dry Run Road. Mr. Haber asked if the required yard setbacks were rotated counterclockwise 90 degrees so that the front yard faces the private drive onto the property, would the house meet the setback requirements?

**Mr. Bowers** replied that if the private drive accessed 3 or more houses there would be a required front yard setback off the private drive, but because there are only 2 properties with access the front yard setback is taken from the property line parallel to Little Dry Run Road.

**Mr. Nye** asked, if there were a third lot that was accessed by the private drive and the front yard was taken from the private drive, would they still need a variance?

**Mr. Bowers** replied that a 40' front yard setback is required and that the setback from the private drive is approximately 29', so a variance would be required.

**Mr. Haber** asked if the applicant shifted the house back 10' from the private drive, would it comply if the front yard setback were taken off the private drive rather than the property line parallel to Little Dry Run Road.

**Mr. Bowers** stated that it would need to meet the front yard setback off the private drive.

**Mr. Nye** asked about the accessory apartment. He referenced drawing 5a and 5b of the applicant submittal.

**Mr. Bowers** went to the slides showing the floor plan of each floor as proposed by the applicant.

**Mr. Nye** asked about the accessory apartment. He asked if the accessory apartment requirement was due to the exterior staircase and the fact that the loft does not have an

interior connection to the house. He asked if there were an interior staircase through the garage would the conditional use still be required.

**Mr. Bowers** replied the accessory apartment conditional use is required because it is accessed from the outside and cannot be accessed from any other livable areas within the house.

**Mr. Nye** asked if they put the staircase within the garage would it still require a conditional use.

**Mr. Bowers** replied that if it were relocated to be in the garage it would eliminate the conditional use requirement as it would be accessible to the rest of the residence.

**Mr. Nye** asked about the site layout of the accessory apartment and location of the staircase.

**Mr. Bowers** replied that he believes the conditional use would not be required if the staircase were brought inside the garage.

**Mr. Nye** stated that any cross-examination is going to wait until the applicants spoke.

**Emily Handke, of Emily Handke Design, 11824 Forest Drive, Carmel, Indiana 46033**, stated the Blazers were unaware of the zoning requirement and the front yard setback being taken off of Little Dry Run. She stated that if she were the neighbor she would rather have this orientation as opposed to the back of the house facing the property to the south. She stated that due to the width of the lot, meeting the requirements would allow for less area for a buildable lot. She stated that this orientation is their best effort to satisfy both the neighbor to the south and to the north. She stated that when standing on the property you are unable to see the property to the south and it is 275' away. She stated that the accessory apartment is respectful to the neighbors and blends in with the character of the residence. She stated the intention of the space is to have their high school sons have their own space for when they are home. She stated that they are trying to keep everyone's best interest in mind while designing it and that the existing vegetation will not be removed.

**Brian Blazer, 8106 Meagans Lane, Cincinnati, Ohio 45255** stated that he is not trying to build anything crazy. He stated that they are trying to be respectful of their neighbors. He stated that they would like to use the area for in-laws and for their high school sons.

**Patrick Portman, 2576 Little Dry Run Road**, stated that they purchased their house in May. He stated that finding a home for eight (8) people was quite the challenge. He stated that all the houses provide a park like setting for the neighborhood. He stated that the property in question was once part of the adjacent property next door to them. He stated that the old owner of the home told them that the nature and vegetation would not be disturbed. He stated that the plan would not allow for the protection of wildlife and view for this property. He stated that they have concern about the proposed accessory apartment. He stated that apartments tend not to be the safest neighbors and that he is concerned about the safety of their children if renters were able to live there. He stated that they are caddy corner to Wilson Elementary and that the apartment would be a threat to the safety of families walking along Little Dry Run.

**Mr. Nye** asked if Mr. Portman had anything in mind to help keep the nature like setting on the property.

**Mr. Portman** replied that the applicant could provide more grass so that the deer can still be on the property. He stated that he wants to make sure that the deer still have a home in a park like setting with a creek. He stated that the honeysuckle provides hummingbirds. He stated that their goal is to add more vegetation. He stated that the property owners never asked for their opinion.

**Chris Watford, 2570 Little Dry Run Road**, stated that they are the property owner to the south. He stated that he is not opposed but there are conditions that need to be addressed. He stated that there is no landscape plan that shows how the staircase will be shielded. He stated that the site plan and applicant testimony is not accurate to what is on the site. He stated that he has pictures of the property line and how there is no vegetation in the area near the proposed staircase. He handed the images to the Board. He stated that he has concerns about the accessory apartment. He stated that there should be a condition to keep the property as a single-family use.

**Mr. Halpin** asked if his property was to the south.

**Mr. Watford** replied that his property is to the south and that you can see his house from the property in question.

**Mr. Halpin** asked about the orientation of the images and asked for clarification regarding where the images were taken.

**Mr. Watford** replied that the images he provided are looking north.

**Mr. Haber** asked to go back to the aerial imagery. Mr. Haber stated that the house at 2570 Little Dry Run is not shown on the aerial imagery.

**Kevin McCann, 2588 Little Dry Run Road**, asked about the wildlife and stated that there are owls located on the property and that he has lived in their house for 28 years. He asked how much of the vegetation will have to be removed and how much fill will have to be brought in to raise the property to make it buildable. He stated that the creek is located on the east side of the property. He stated if they remove the trees, they will lose their privacy if the lot is built. He stated that there is a water line that comes through his property to put water in the creek. He asked to see the images submitted by Mr. Watford. He stated that a deer died trying to jump the fence and that there is a lot of wildlife on the property.

**Ms. Sara Meadows (ASL Interpreter), on behalf of Misty Portman, 2576 Little Dry Run Road**, stated that in the staff report it explains the history of the land, and that the land division was not set up in 1966, but that the original owner of her property split the property in 3 pieces. She stated that she is concerned about the history of the property as presented in the staff report. She stated that she wishes she knew that the property behind them was up for sale. She stated that the proposed plan does not value the culture of the neighborhood. She stated that if they

were to try and sell the house, she is not sure if their house would lose value because of the development. She stated that they wish to protect the environment. She stated that if they get the approval for the house, she is unclear what she is going to be seeing when they look at the property. She stated that they looked for 2 years to find a property with enough space for their family. She asked why the property owners didn't buy the land with a plan already in place. She provided an image of the deer in the backyard.

**Mr. Nye** asked if she could identify the property line in the photo that she submitted.

**Ms. Portman** provided clarification, she stated that the shed is located behind the trees. She stated that when they bought the house, they thought it was on their property.

**Mr. Burke** asked Mr. Bowers if the board was provided with a copy his letter dated September 23<sup>rd</sup>.

**Mr. Bowers** replied no.

**Mr. Burke** asked Mr. Bowers if he could submit the letter to the board.

**Mr. Nye** stated that this letter is not sworn testimony.

**Mr. Burke** handed the board members his letter dated September 23<sup>rd</sup>.

**Mr. Haber** asked if the board could have a few minutes to review the letter.

**Mr. Nye** asked Mr. Burke if he could summarize the letter. Mr. Nye stated there are 4 points of the letter. 1) That the property remains single family, 2) landscape plan be submitted, 3) Accessory apartment not be rented separately, and 4) access to the apartment from interior of the garage.

**Mr. Haber** asked if the appellant received the letter from Ms. Handke dated September 16<sup>th</sup>.

**Mr. Burke** replied that yes, she was copied on the email.

**Mr. Burke** asked Mr. Bowers if the statement provided by Ms. Handke on September 16<sup>th</sup> was included in the packet to the board.

**Mr. Bowers** replied no.

**Mr. Burke** asked about Article 3, B, 4 of the bylaws which state the requirements for a submittal to the Board of Zoning Appeals. He stated the bylaws read: "In all cases where a new building is to be constructed, all dimensions relating to the location of the building, and the size of the lot to be built upon shall be shown on the plans, and the plans shall be signed by an Ohio Registered Surveyor. Where an addition, alteration or the use of the existing building or premises is involved, the plot plans filed must also be signed by an Ohio Registered Surveyor."



**Mr. Bowers** replied that it is listed in the bylaws and that staff made a recommended condition that if the variance and conditional use were approved a survey stamped site plan would need to be submitted by the applicant and approved by staff.

**Mr. Burke** asked about the reason for the requirement and stated that the reason for the requirement is to show what is accurate.

**Mr. Bowers** asked to repeat the question.

**Mr. Burke** repeated the question.

**Mr. Bowers** replied yes.

**Mr. Burke** asked if Mr. Bowers could display the site plan.

**Mr. Burke** asked if Mr. Bowers was aware of the huge inaccuracies in the drawing.

**Mr. Bowers** replied that he is not aware of any inaccuracies and stated that staff is recommending a condition stating a survey stamped site plan needs to be submitted before issuing a zoning certificate.

**Mr. Burke** stated that without a registered survey stamp, the site plan is not accurate. He asked if everything to the left was accurate as presented to the board.

**Mr. Burke** asked about the accuracy of the lot to the north.

**Mr. Bowers** stated that the property to the north is not accurate as there was a lot split and stated that that is an adjacent lot.

**Mr. Burke** asked if a registered surveyor would have done the drawing would it be inaccurate?

**Mr. Bowers** replied that he is not sure.

**Mr. Burke** asked if the board can see the inaccuracies on the site plan.

**Mr. Haber and Mr. Halpin** asked if Mr. Burke could explain the inaccuracies on the property to the north.

**Mr. Burke** explained that the property to the north is not accurately shown on the site plan.

**Mr. Halpin** asked if the dashed line on the site plan was where the lot split took place.

**Mr. Burke** replied that that is not the way the site plan is being presented to you.

**Mr. Burke** asked about the plans submitted by the applicant and if there is an architect stamp.

**Mr. Bowers** replied that there is not an architect stamp on the drawing.

**Mr. Burke** asked if Ms. Handke presented herself as an architect.

**Mr. Bowers** replied no.

**Mr. Burke** asked about the accessory apartment definition and how staff interpreted that if the staircase were inside the garage, a conditional use would not be needed.

**Mr. Bowers** stated that that is how staff interpreted the definition of an accessory apartment.

**Mr. Burke** asked if there was anything in the zoning resolution that staff could point to.

**Mr. Bowers** replied that the definition of an accessory apartment states it would be an independent living facility. He stated that if it were attached from the interior of the house, it would be one (1) living facility. He stated that because it is connected by a separate entrance is why it is an accessory apartment.

**Mr. Burke** asked if the entrance could be inside the garage.

**Mr. Bowers** replied yes, but then one could also get into the rest of the interior of the house.

**Mr. Burke** asked about the staff report indicating the vegetation and asked how staff make this interpretation.

**Mr. Bowers** replied that this was based on applicant testimony and by visiting the site and taking photos.

**Mr. Burke** asked about Ms. Handke's credentials.

**Ms. Handke** stated that she is an architectural designer.

**Mr. Burke** asked if she had contact with the Watford's.

**Ms. Handke** stated that she has not.

**Mr. Burke** asked about the accessory apartment. He stated that she indicated in the submittal that the accessory apartment would be used for family only.

**Ms. Handke** replied that is correct.

**Mr. Burke** asked about the submittal indicating that the accessory apartment would be consistent with the design of the neighborhood. He asked if Ms. Handke could identify another property with an accessory apartment with an exterior staircase.

**Ms. Handke** replied that she was referring to the size and materials of the proposed residence which are consistent with the neighborhood. She stated that as long as they stay within the footprint they are respecting the neighborhood.

**Mr. Burke** asked about the exterior elevation including the exterior stair well up to the accessory apartment and asked if Ms. Handke could provide an example of another property in the neighborhood with an exterior staircase.

**Ms. Handke** stated that she could not find another property with an accessory apartment and exterior staircase.

**Mr. Burke** asked about Ms. Handke's testimony regarding the unusualness of the accessory apartment and that the staircase indicates that something is unusual about this property.

**Ms. Handke** stated that the features of the garage are consistent with the style of the houses in the neighborhood.

**Mr. Burke** asked if more than 50% of that drawing is inaccurate.

**Ms. Handke** replied that she does not believe so.

**Mr. Burke** asked if Ms. Handke accurately identified the property fronting Little Dry Run Road.

**Ms. Handke** replied that the site plan still shows an accurate depiction of the house. She stated the only difference is that there is not a dividing line on the property to the north which is irrelevant to the property in question.

**Mr. Burke** asked if Ms. Handke identified who the property owner is and why is this not signed by a surveyor.

**Ms. Handke** replied that the survey was provided by the property owner and the surrounding properties are just an underlay and that the property in question is accurately shown.

**Mr. Burke** asked if Ms. Handke even bothered to consider the fact that there is now a house on that property.

**Ms. Handke** replied that she was not going to modify a survey that was provided to her.

**Mr. Burke** asked if Ms. Handke presented it as a survey document.

**Ms. Handke** replied that she did not and that she received the document from the property owner.

**Mr. Burke** stated that Ms. Handke did not submit this with a survey stamp.

**Mr. Sian** asked if the appellant could speak again.

**Mr. Sian** asked Ms. Handke about a potential condition of approval. Mr. Sian asked Ms. Handke if the property owners would consider a condition prohibiting the rental of the accessory apartment.

**Ms. Handke** replied that she would need to confirm with the property owner.

**Ms. Handke** stated that regardless of where the house sits, the property is a legally buildable lot. She addressed the property setbacks. She stated that the site plan shows the property in question accurately. She stated that it would be nice to have the exterior staircase shielded and that they have not provided it due to the cost but wanted to wait until there was approval.

**Mr. Nye** asked if fill dirt would be needed to make it buildable.

**Ms. Handke** replied that that would be a better question for the contractor. She stated that her software allows her to design it utilizing existing topography.

**Mr. Nye** asked if she was aware of the neighboring house even though it is not shown on the site plan.

**Ms. Handke** stated that she is familiar with the site and that the design respects neighboring properties.

**Ms. Richardson** asked if the staircase can be moved on the inside of the garage.

**Ms. Handke** stated that it is the property owner's preference to have it on the exterior.

**Mr. Halpin** asked if the staircase could be completely enclosed on the interior.

**Ms. Handke** stated that it would be possible but that the exterior would seem larger due to the changes in the design.

**Mr. Nye** asked if the accessory apartment would violate the zoning resolution if they chose to rent this out.

**Mr. Bowers** replied no and stated it would be similar to someone renting out their basement.

**Mr. Portman** provided clarification on the site plan and pointed out that the site plan is completely inaccurate. He stated that if the house were built on the property it would fall into the creek.

**Mr. Haber** stated that he had a hard time deciphering and accepting the reality of what Mr. Portman said.

**Mr. Portman** provided clarification to Mr. Haber by showing him a Hamilton County Auditor image.

**Mr. Portman** and **Mr. Haber** engaged in a conversation regarding the accuracy of the Hamilton County Auditor image.

**Mr. Bowers** stated that the image provided by **Mr. Portman** is an aerial image and is not necessarily accurate.

**Mr. Nye** asked for clarification from **Mr. Portman** and stated that the image presented does not appear to be the full lot.

**Mr. Portman** pointed to the shed and stated that where the shed is where the creek begins.

**Mr. Haber** stated that the creek, according to the topographic map, does not start at the shed and begins on a different property.

**Mr. Portman** stated that there is no way to build a house without filling all of that area in.

**Kimberly McCann, 2588 Little Dry Run**, stated that the storm drain from Little Dry Run is right next to the fence on their property.

**Mr. Haber** asked if it was a headwall.

**Ms. McCann** stated that is at the end of the pipe and that you can walk through it if you wanted to. She stated that they have a concern that building on the property may impact that storm drain. She stated that it is 10' onto their property.

**Mr. Halpin** stated that it most likely follows the topographic lines on the map.

**The Public Hearing was closed at 7:19 PM**

**Mr. Burke** stated that his clients are not saying that this lot unbuildable. He stated that there are errors in the process that are worth pointing out. He asked **Mr. Haber** if he is registered architect.

**Mr. Haber** replied that he is an architect.

**Mr. Burke** stated that **Mr. Haber** should understand the problem of a drawing being submitted not from a registered surveyor nor is it signed by an architect. He asked **Mr. Haber** how he knows the drawing is accurate.

**Mr. Burke** stated that **Ms. Handke** cannot identify herself as an architect.

**Mr. Haber** replied that she identified herself as an architectural designer. He stated that these are architectural drawings and that **Ms. Handke**, under the Ohio Revised Code, can prepare building and architectural drawings.

**Mr. Burke** stated that without them being stamped by a registered surveyor or architect they are inaccurate. He stated that the conditions that they suggest are very reasonable and valuable for the township. He asked that in addition to the recommendation of the landscaping, that the landscaping be approved and advised by the Watford's. He asked about the accessory apartment definition, he stated that the accessory apartment should be kept in single family character. He stated that the applicant indicated that the staircase gives it away that the accessory apartment is located on the property.

**Mr. Halpin** asked how she as the designer can address their concern.

**Ms. Handke** replied that they would be comfortable having a condition only renting the accessory apartment to family and keeping in the single-family character of the neighborhood.

#### **Deliberation of Case 17-2021 BZA**

The board discussed the conditional use and variance request to allow for a new single-family residence with an Accessory Apartment with a rear yard setback of 18'-3" where 35' is required per Article 3.4, C, 2 c of the Anderson Township Zoning Resolution. Per Article 5.4, I, 1, Accessory Apartments are a conditional use in the "A-2" Residence Zoning District.

**Mr. Sian moved and Mr. Halpin seconded to continue Case 17-2021 BZA to the November 4<sup>th</sup> Board of Zoning Appeals hearing and have the applicant submit a landscaping plan and revised site plan.**

The next meeting is scheduled for Thursday, November 4, 2021, at 5:30 p.m. at the Anderson Center.

The meeting was adjourned at 7:54 p.m.

Respectfully submitted,

Jeffrey Nye, Chair



**THURSDAY, OCTOBER 7, 2021 AT 5:30 P.M.**  
**ANDERSON CENTER, 7850 FIVE MILE ROAD**

**PLEASE PRINT - THANK YOU**

NAME: \_\_\_\_\_

**ADDRESS:**

Patrick + Misty Portman 2576 Little Dry Run

CHRIS & HANNA WATFORD

2570 LITTLE DRY RUN RD

Tom Burke

225 W COURT 45202

Emily Handke

Architectural Designer

Brian Blazer

Lot owner 2574 Little Dry Run

Kim + Kevin McCann

2500 Little Dry Run